

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C. Nos.2636, 2594 and 2711 OF 2017

COMMON JUDGMENT:

All these Criminal Revision Cases have been filed by one and the same revision petitioner - appellant - accused No.1, aggrieved over the conviction recorded and sentence of rigorous imprisonment for a period of three (3) years and to pay a fine of Rs.100/- with default sentence to undergo simple imprisonment for a period of one month inflicted by the learned IV Additional Chief Metropolitan Magistrate, Hyderabad in C.C. Nos.783 of 2015, 914 of 2015 and 782 of 2015 for the offence punishable under Section 382 IPC, by judgment, dated 01.02.2017, and on appeal, while confirming the conviction and sentence of imprisonment and the fine amount by the learned Metropolitan Sessions Judge, Hyderabad, but, however, converted the offence to Section 411 IPC from 382 IPC by the learned Metropolitan Sessions Judge, Hyderabad in Criminal Appeal Nos.206 of 2016, 198 of 2017 and 199 of 2017, respectively, by judgment, dated 05.05.2017.

2. In fact, there is no need to advert to the fact-situation and findings recorded by the Courts below as the request made by the learned counsel for the revision petitioner is that the revision petitioner - accused No.1 has been undergoing the sentences of imprisonment from 11.05.2015 and earlier thereto, he had undergone

pre-trial detention for about five (5) months and, therefore, the entire period of three years of sentence of rigorous imprisonment inflicted by the learned Magistrate and confirmed by the learned lower appellate Court though, the offence is converted from one of 'theft' to that of 'receiver of stolen property' under Section 382 IPC to 411 IPC. However, it is necessary to refer to the fact-situation.

3. The prosecution case in so far as it relates to Crl.R.C. No.2636 of 2017, in brief, is that on 24.10.2014 at about 9.30 p.m., when Smt. Gayatri Prasad - the *de facto* complainant was going on foot towards Andhra Bank, Bagh Amberpet, Hyderabad from Saibaba Temple, two persons came on motorcycle in opposite direction and snatched away black bead gold chain weighing 3 tolas, and in that connection, she lodged the complaint.

4. Like-wise, in other two Criminal Revision Cases also, there have been the incidents of chain snatching from the neck of the *de facto* complainants.

5. Upon registering the cases, investigation was taken up. During the course of investigation, revision petitioner - accused No.1 was arrested and he alleged to have made a confession and at his instance, the material objects were recovered under a recovery *panchanama* in the presence of mediators, who have also spoken to

the complicity of accused No.2 and the present Criminal Revision Cases are filed by accused No.1.

6. The learned Magistrate examined PWs.1 to 7 and marked Exs.P-1 to P-8, besides MO.1 - gold chain in so far as it relates to Criminal Revision Case No.2636 of 2017 is concerned. In Criminal Revision Case No.2594 of 2017, the learned Magistrate examined PWs.1 to 7 and marked Exs.P-1 to P-7, besides MO.1 - gold chain, whereas, in Criminal Revision Case No.2711 of 2017, the learned Magistrate examined PWs.1 to 7 and marked Exs.P-1 to P-9, besides MO.1 - gold chain and MO.2 - Samsung Cell Phone.

i) In so far as Criminal Revision Case No.2636 of 2017 is concerned, PW.1 is the *de facto* complainant, PW.2 is one of the mediators to confessional recovery mahazar, PW.3 is learned XIII Additional Chief Metropolitan Magistrate, who conducted Test Identification Parade, PW.4 is Sub-Inspector of Police and First Investigating Officer, PW.5 is the Inspector of Police and second Investigating Officer, PW.6 is mediator for confession - cum -seizure *panchanama* relating to accused No.2, and PW.7 is another Inspector of Police and third Investigating Officer.

ii) In so far as Criminal Revision Case No.2594 of 2017 is concerned, PW.1 is the *de facto* complainant, PW.2 is one of the mediators to confessional recovery mahazar, PW.3 is learned XIII

Additional Chief Metropolitan Magistrate, who conducted Test Identification Parade, PW.4 is Inspector of Police and Investigating Officer, PW.5 is the Sub-Inspector of Police and another Investigating Officer, PW.6 is mediator for confession - cum -seizure *panchanama* relating to accused No.2, and PW.7 is another Inspector of Police and third Investigating Officer.

iii) In so far as Criminal Revision Case No.2711 of 2017 is concerned, PW.1 is the *de facto* complainant, PW.2 is one of the mediators to confessional recovery mahazar, PW.3 is learned XIII Additional Chief Metropolitan Magistrate, who conducted Test Identification Parade, PW.4 is Sub-Inspector of Police and First Investigating Officer, PW.5 is the Inspector of Police and second Investigating Officer, PW.6 is mediator for confession - cum -seizure *panchanama* relating to accused No.2, and PW.7 is another Inspector of Police and third Investigating Officer.

iv) The learned Magistrate having found the evidence of mediator and Ex.P6 proving the recovery of MO.1 at the instance of revision petitioner and PW.1 identifying MO.1 as belonging to her, believed the prosecution case and convicted the revision petitioner for the offence under Section 382 IPC, which, on appeal, converted to 411 IPC, as referred to in the above.

v) The learned lower appellate Judge also found, on analysis of evidence on record, that the prosecution could prove the offence under Section 411 IPC, though not the charge under Section 382 IPC, and affirmed the sentence of rigorous imprisonment and fine.

7. As could be seen from the findings recorded by both the Courts below, absolutely there is no legal infirmity to be found, in which case, certainly, the conviction recorded and sentence of rigorous imprisonment inflicted and fine of Rs.100/- imposed cannot be disturbed keeping in view, the *modus operandi* of the revision petitioner along with other accused person in the commission of offences.

8. Thus, there is no merit in these Criminal revision Cases, and accordingly, the same are dismissed. However, since the judgment of the learned Magistrate would clearly show that the revision petitioner - accused No.1 was in remand from 11.05.2015 till 01.02.2017, on which date, he pronounced the judgment recording the conviction and it is also ordered that the sentence of imprisonment passed shall run concurrently in so far as the present Criminal Revision Cases are concerned and in other cases, pre-trial detention shall be given set off under Section 428 of Cr.P.C. In case, the sentence of rigorous imprisonment of three years is served out by the revision petitioner, he shall be released forthwith.

As a sequel thereto, miscellaneous petitions, if any, pending in these revisions, stand closed.

A. SHANKAR NARAYANA, J

November 24, 2017.
Mgr

